

**MINUTES
of the
SECOND MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE
CHARTER SCHOOL SUBCOMMITTEE**

**November 7, 2006
State Capitol, Room 315
Santa Fe, NM**

The second meeting of the Charter School Subcommittee of the Public School Capital Outlay Oversight Task Force was called to order by Senator Cynthia Nava and Representative Rick Miera, co-chairs, on November 7, 2006 at 9:15 a.m. in Room 315 at the State Capitol, Santa Fe.

Present

Rep. Rick Miera, Co-chair
Sen. Cynthia Nava, Co-chair
Sen. Vernon D. Asbill
Dr. Anna Lamberson
Sen. Carroll H. Leavell
Don Moya
Bud Mulcock

Absent

Robbie Heyman
Rep. Larry A. Larrañaga
Sen. Leonard Tsosie

Staff

Paul Aguilar, Legislative Finance Committee (LFC)
Sharon Ball, Legislative Council Service (LCS)
Tim Berry, Public School Facilities Authority (PSFA)
Corina Chavez, Public Education Department (PED)
Robert Gorrell, PSFA
Frances Maestas, Legislative Education Study Committee (LESC)
Jonelle Maison, LCS
Roxanne Knight, LCS
Antonio Ortiz, PED
Paula Tackett, LCS

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Tuesday, November 7

Charter School Transportation Costs

Gilbert Perea, assistant secretary for program support and student transportation, PED, discussed PED's proposal to provide transportation to students attending state-chartered charter schools as required in SB 600, which passed the 2006 legislature and becomes effective July 1, 2007.

Mr. Perea explained that the current public school transportation formula is based upon a statistical regression model and is divided into two funding tiers that separate funding characteristics for school district enrollment above and below 1,000 students. He added that the transportation formula also includes "per capita mileage reimbursement" for parents who must drive their children to school or to a district school bus pickup point when regular school bus transportation services are not available or are impractical because of distance, road conditions or sparseness of population, or when the local board has authorized a parent to receive reimbursement for travel costs when the board has allowed a child to attend a school outside the child's regular attendance zone.

He said that PED's proposed model for state-chartered charter schools would establish a third set of funding characteristics based upon current experience in expenditures and services. He provided the subcommittee with the following proposed figures for charter schools:

- for school bus mileage, \$1.83 compared to \$0.59 for school districts with enrollments greater than 1,000 and \$0.85 for school districts with enrollments fewer than 1,000; and
- for per capita mileage reimbursement, \$0.20 projected.

In response to members' questions, Mr. Perea stated that the regression model that was used for the proposed charter school transportation costs is based upon PED's current experience with five charter schools. He acknowledged that data from only five schools are not enough for a statistically valid regression model, but that PED would make adjustments as more schools use district transportation services. In response to an additional question, Mr. Perea stated that in the Clayton district, the funding provided for the Amistad Charter School is "a wash" based upon the fact that, if the charter school did not exist, the students would have to be transported to and from school anyway.

When members of the subcommittee expressed concerns about making a cost determination (and therefore a request for funding from the legislature) based upon data from only five schools, Mr. Perea stated that he believes that PED would continue to use current expenditure data for the FY08 request but would use additional data (based upon participation from additional charter schools) with full implementation in FY09. He reiterated that PED expects to make adjustments as more charter schools take advantage of state-funded transportation funding.

Subcommittee members expressed concerns about the unpredictability of increases in transportation funding once the legislation goes into effect. In response to some subcommittee comments, Dr. Lisa Grover, executive director, New Mexico Coalition of Charter Schools, stated that passage of the legislation "takes the politics out of [the transportation issue]". She reported that district school buses in some districts pass directly by charter schools on their respective routes, but because of "politics", the district will not allow the buses to pick up charter school students at stops along their respective routes and drop the students off at the charter school.

In response to a question from Ms. Maestas regarding the effect of transporting charter school students on district buses, Mr. Perea stated that PED expects little or no effect on current equipment unless charter schools have bell schedules that are substantially different from local district bell schedules. Ms. Maestas asked if a charter school could request its own school bus. Mr. Perea responded that it is a possibility, but what would be more likely would be for a charter school to contract with a provider for its own services.

In response to a question from Dr. Lamberson about the use of municipal buses to transport charter school students, Mr. Perea stated that PED allows transportation of students only on school buses and via approved reimbursement to parents or guardians through per capita feeder provisions of rule. In response to additional comments and questions on the subject of using municipal buses, Mr. Perea stated that the rule is in place and enforced because of considerations such as liability and safety.

The subcommittee requested that Mr. Perea examine the issue further by taking into consideration costs to transport additional charter school students and projections farther into the future and report back to the subcommittee at its next meeting.

Subcommittee Requests for Information

Ms. Ball explained that the subcommittee had requested additional information on costs for various modifications to the Public School Capital Improvements Act to include charter schools and on the current matrix required by PED for potential charter schools applying to their respective districts.

Mr. Ortiz provided subcommittee members with four tables labeled "Capital Improvements Act (SB-9): One Additional Mill", versions A-D. Directing members' attention to the "A" table, Mr. Ortiz discussed the effect of the addition of an additional mill to the two already provided for in current statute. He noted that in Albuquerque, for example, an additional mill would generate nearly an additional \$12.0 million and additional state guarantee funding of approximately \$960,000. Directing members' attention to the "B" table, Mr. Ortiz explained that this table represents a detail of the "A" table in that it illustrates the extra mill distribution by student (MEM) among the charter schools.

Subcommittee members noted that, if proceeds from imposition of the entire additional mill are designated for charter school capital outlay needs, charter schools would have enough funding for capital improvements only if they are willing and able to keep the funds together for

larger, prioritized projects on a school-by-school basis as opposed to dividing the amount among all charter schools within the district. In response to subcommittee members' discussion and questions, staff indicated that it would be possible to complete a more comprehensive evaluation of charter school facilities than is currently in the 3-DI Index by using contracted architects and planners to complete the evaluations. In response to additional questions, Mr. Gorrell indicated that this evaluation could be completed within a relatively short period of time so that these charter school evaluations could become part of the database during this funding Public School Capital Outlay Council cycle.

Mr. Ortiz noted that the tables labeled "C" and "D" were, respectively, additional details from the "A" table with a total three-mill levy showing the local SB 9 share distributed by student and the state guarantee distributed by funding unit for the 2005-06 school year and the same information based upon initial property valuations for the 2006-07 school year.

Ms. Ball provided the subcommittee members with copies of the PED "Procedures for Application and Renewal as a Charter School" matrix. Ms. Ball indicated that, according to records from meetings at which the matrix was developed, Dr. Grover had represented charter schools. Dr. Grover indicated that her participation had been minimal because the matrix had been presented to her as a "done deal" and that she had been allowed very little input on behalf of the New Mexico Coalition of Charter Schools. Dr. Grover also reiterated that the information required by this matrix is voluminous and that some changes in wording could work toward reducing the volumes of paper required to respond appropriately. As an example, she directed the subcommittee's attention to Item 9 on page 2, which requests the applicant to provide "a specific, detailed description of all curriculum (whether in one or two languages) including scope and sequence and student performance standards". Dr. Grover indicated that an appropriate response to this request could require more than 1,000 pages to respond appropriately depending, for example, upon the number of grade levels served in the school.

Context for Charter School Capital Outlay Funding Options

Ms. Tackett and subcommittee members discussed aspects of the Zuni Special Master's Report as they would relate to a capital outlay distribution for charter schools. Members noted that a persistent problem for charter schools, whether they would be chartered by the local district or the state, is the fact that they have no property tax base and, hence, no bonding capacity. Members noted that an additional issue of continuing concern relates to the effect of direct appropriations upon the charter school's local school district both in terms of the district having to come up with the required match and, as well, having to absorb the statutorily required offset.

Dr. Lamberson stressed the importance of examining issues related to raising capital outlay funds for charter schools without penalizing the respective local districts and providing a secure, pledged revenue stream against which charter schools could bond. In response to the discussion and members' questions, Paul Cassidy of RBC Dain Rauscher (who serves as bond adviser to a number of New Mexico public school districts and municipal and county governments) stated

that a revenue stream of approximately \$12.5 million per year would be needed to service a bond debt of \$175 million, which charter school representatives and others have tentatively identified as the amount of capital outlay funding that charter schools would need. Members discussed other sources of funding, including the New Mexico Finance Authority and the Public School Buildings Act (also called "HB 33").

Subcommittee members also discussed the effect of voter approval of Constitutional Amendment #2, which is on today's general election ballot. Voter approval of CA #2 would allow the state and school districts to enter into lease-purchase agreements when there is no obligation to continue the lease from year to year or to purchase the leased property and when the lease can be terminated if there are insufficient funds to meet current lease payments. Members agreed that approval of this amendment would provide a significant mechanism for charter schools to use to meet capital outlay needs, especially considering the current statutory requirement that all charter schools be in public buildings by 2010. Some members and guests indicated a desire to amend that statute to extend the deadline to 2015.

Bill Draft Discussions

Ms. Maison and Ms. Tackett presented several discussion drafts of bills to address issues raised by the subcommittee at its September 11 meeting.

- 163845: This discussion draft would require districts to include any charter schools located in the district in any Public School Capital Improvements Act (SB 9) levy that goes before the voters and to distribute the proceeds based upon the charter school's fortieth-day membership. The bill would also require that the county treasurer distribute the proceeds directly to the charter school rather than have the funding go through the district.
- 163846: This bill would require districts to include their charter schools in any Public School Buildings Act (HB 33) levy submitted to voters for their approval and also would require a direct distribution to the charter school.
- 163847: This discussion draft would provide for voters to approve an additional mill to be levied for the Public School Capital Outlay Act two-mill levy. The proposal would require the additional mill to be shared among all public schools in the district, including charter schools, based on the fortieth-day membership of each school.
- 163917: This bill would require districts to include charter schools in any bond issue if the charter school is ranked in the top 10 to 15 priorities in the facility assessment database and the costs are within the bonding capacity of the district.
- 163923: This bill would provide for an annual adjustment of the \$600 per student amount of funding for leased facilities based on the consumer price index.

Subcommittee members discussed the relative merits of each of the drafts of legislation, as well as their concerns. Several members expressed particular concerns about the importance of providing a bondable revenue stream that charter schools could access that would not take funding from revenue streams already established for school districts.

Subcommittee members agreed by consensus to request that additional bills be drafted for discussion at the December meeting (assuming the Legislative Council approves an additional meeting for the subcommittee). Members agreed to consider legislation that would accomplish the following:

- remove the offset requirement for appropriations to state-chartered charter schools;
- allow for aggregation of SB 9 funding for state-chartered charter schools;
- provide a revenue stream for charter schools to pay off bonds issued for the local match for their respective school capital outlay projects;
- allow lease payments and the maximum of other statutorily established payments to rise with inflation;
- extend the deadline for charter schools to be in public buildings to 2015;
- allow for an extra mill under SB 9 for charter schools and allow for distribution directly from the county treasurer;
- require districts to consider the needs of charter schools when adopting a resolution for general obligation bonds;
- increase the state guarantee for SB 9 to \$70.00; and
- if CA #2 is approved by voters, draft enabling legislation to accomplish its implementation.

There being no further business to come before the subcommittee, the meeting adjourned at 3:40 p.m.